

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Victor J. Dzau, et al. Docket No.: 39753-0021C2  
Serial No.: 09/839,752 Group Art Unit: 1636  
Filing Date: April 19, 2001 Examiner: Marvich, Maria  
For: THERAPEUTIC USE OF CIS-ELEMENT DECOYS IN VIVO

**SUPPLEMENTAL INFORMATION DISCLOSURE**  
**STATEMENT UNDER 37 C.F.R. §1.97**

Commissioner for Patents  
P.O. Box 1450  
Arlington, VA 22202

Sir:

Listed below or on an attached Form PTO-1449 is information known to applicant(s). A copy of each listed publication and U.S. and foreign patent, except for pending U.S. applications, is being submitted herewith, along with a concise explanation of information in a foreign language, if any, pursuant to 37 C.F.R. §1.97-1.98.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If form PTO-1449 is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56.

☒ This statement qualifies under 37 C.F.R. §1.97, subsection (b) because (check all that apply):

- ☐ (1) It is being filed within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d)  
-- OR --  
☐ (2) It is being filed within 3 months of entry of a national stage  
-- OR --

## CERTIFICATE OF MAILING (37 CFR 1.10(a))

CERTIFICATE OF MAILING BY "EXPRESS MAIL" - Rule 10: I hereby certify that this correspondence is being deposited on October 14, 2003 with the U.S. Postal Service "Express Mail Post Office to Addressee" under 37 CFR 1.10 as Express Mail No. EV346725565US addressed to: Mail Stop: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: October 14, 2003

*Cheryl Ann Rogers*  
Cheryl Ann Rogers

- ☐ (3) It is being filed before the mail date of the first Office Action on the merits  
— OR —  
☒ (4) It is being filed before the mailing of a first Office Action after the filing of a request for continued examination under § 1.114.

☐ 37 C.F.R. §1.97(c). If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application; (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; or (3) the mailing date of a first Office action on the merits, but before the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, then:

- ☐ a certification as specified in §1.97(c) is provided below; or  
☐ a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

☐ 37 C.F.R. §1.97(d). If this statement is being filed after the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, but before payment of the issue fee, then:

- A. a certification as specified in §1.97(e) is completed below; and  
B. a petition under 37 C.F.R. §1.97(d) requesting consideration of this statement is submitted herewith; and  
C. a fee of \$180.00 as set forth in §1.17(i)(1) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

☐ *Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of \$180.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 08-1641 (Docket No. 39753-0021C2).

Respectfully submitted,

Dated: October 14, 2003

By: 

Ginger R. Dreger  
Reg. No. 33,055

**BERMAN HERMAN WHITE & MCAULIFFE LLP**  
Customer No. 25213  
275 Middlefield Road  
Menlo Park, CA 94025-3506  
Telephone: (650) 324-7000  
Facsimile: (650) 324-0638

## Facsimile Transmittal

**HellerEhrman**  
ATTORNEYS

275 Middlefield Road  
Menlo Park, CA 94025-3506  
Main (650) 324-7000  
Fax (650) 324-0638

**To:** Examiner Maria B. Marvich, USPTO  
**Telephone:** 703/605-1207

**Fax:** 703/746-3971

**From:** Cheryl Rogers for Ginger R. Dreger  
**Telephone:** (650) 324-7164  
**Direct Fax:** (650) 324-0638

**No. of Pages:** 14 (including cover)  
**Date:** December 5, 2003

39753.0021 (7041)

**Message:**

**RE:** U.S. Patent Application No. 09/839,752  
Title: THERAPEUTIC USE OF CIS-ELEMENT DECOYS IN VIVO  
Filed: April 19, 2001  
Our Reference No.: 39753-0021C2

**FACSIMILE NO. 3:**

Documents attached are as follows:

1. Article - Hiebert, Scott W., "E1A-dependent Trans-activation of the Human Article - Hiebert, Scott W., "E1A-dependent Trans-activation of the Human *MYC* Promoter Mediated by the E2F Factor";
2. Article - Yee, A.S., et al., "Promoter Interaction of the E1A-inducible Factor E2F and its Potential Role in the Formation of a Multi-component Complex".

The information contained in this communication is intended only for the use of the addressee and may be confidential, may be attorney-client privileged and may constitute inside information. Unauthorized use, disclosure or copying is strictly prohibited, and may be unlawful. If you have received this communication in error or you have not received all pages, please call the sender immediately at (650) 324-7000.

Heller Ehrman White & McAuliffe LLP [www.hewm.com](http://www.hewm.com)

San Francisco Silicon Valley Los Angeles San Diego Seattle Portland Anchorage New York Washington, D.C. Madison, WI  
Hong Kong Singapore Affiliated Offices: Milan Paris Rome